



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/165639

PRELIMINARY RECITALS

Pursuant to a petition filed April 24, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Dane County Department of Human Services in regard to Medical Assistance, a hearing was held on May 14, 2015, at Madison, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner's MAPP eligibility effective May 1, 2015, due to non-payment of the \$100.00 per month premium and placed her in restrictive re-enrollment status.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Shaun Johnson

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County. She is eligible for MA under the MAPP program.

2. On March 2, 2015, the respondent notified petitioner that she was required to pay a MAPP premium in the amount of \$100.00 per month commencing April 1, 2015. It further noted that failure to pay the monthly premium would result in termination of her MAPP enrollment. Exhibit 3-5.
3. Petitioner did not pay her MAPP premium.
4. On April 17, 2015, petitioner received notice from the respondent that, effective May 1, 2015, she would no longer be enrolled in MAPP due to her failure to pay her premium. The notice further indicated that because she did not pay her premium she could not get the benefit for 6 months. Exhibit 3-6.
5. On April 21, 2015, a representative of the respondent spoke with petitioner by phone. The respondent informed petitioner that she was in restrictive reenrollment at that time. Exhibit 2, Testimony of Shaun Johnson.

DISCUSSION

The MAPP program allows disabled individuals to work but to retain eligibility for MA. Wis. Stat., §49.472; *Medicaid Eligibility Handbook*, § 26.1. If net income is below 250% of the federal poverty level, the person is eligible for the program. Wis. Admin. Code, §DHS 103.03(8)(b); *Medicaid Eligibility Handbook*, § 26.4.2. *Medicaid Eligibility Handbook*, § 39.5. Petitioner's net income after employment deductions was and is below that level. If gross income is above 150% of the federal poverty level, however, the person is required to pay a monthly premium to receive MAPP benefits. Wis. Admin. Code, §DHS 103.087(1)(b); *Medicaid Eligibility Handbook*, § 26.5.1.

When a recipient is required to make a monthly premium payment for MAPP eligibility, and she does not do so in the month that it is required, the Department's policy is that MAPP eligibility is to be discontinued in the next month, with notice, and with a six month restrictive re-enrollment period. The petitioner must also re-apply after the expiration of the six month restrictive re-enrollment period. *Medicaid Eligibility Handbook*, § 26.5.6; § 26.6.1. There are also good cause exceptions for non-payment including problems with electronic funds transfer or with an employer's wage withholding; administrative error in processing the premium payment; a contrary fair hearing decision; or other circumstances beyond the control of the recipient. *Medicaid Eligibility Handbook*, § 26.6.2.

At hearing, the respondent's representative confirmed that she had spoken with petitioner on April 21, 2015. She confirmed that the electronic case comment dated that same date accurately reflected her understanding that petitioner's restrictive reenrollment period commenced in April, 2015. However, the respondent's April 17, 2015, notice clearly indicates that restrictive reenrollment would not be effective until May 1, 2015. When questioned, the respondent indicated that she could not recall whether she offered petitioner the option of paying her MAPP premium prior to May 1, 2015, and whether that would prevent the imposition of the restrictive reenrollment period. Nor could the respondent recall if she informed petitioner that terminating her MAPP enrollment would prevent the imposition of the restrictive reenrollment period.

As such, I conclude that the petitioner was provided incorrect and insufficient information by the respondent, who was under the assumption that, as of the April 21, 2015 telephone call, petitioner was already in restrictive reenrollment. The April 17, 2015 notice indicates that the restrictive reenrollment period would not commence until May 1, 2015. Without accurate information in this regard, petitioner was not informed of her options to avoid restrictive reenrollment, i.e., pay the premium prior to May 1, 2015, or terminate her MAPP enrollment.

The petitioner testified that she may have opted to terminate her MAPP coverage in order to avoid placement in restrictive reenrollment. However, this option was not explored since the respondent's representative understood that restrictive reenrollment had already commenced.

This matter shall be remanded to the respondent to remove petitioner's restrictive reenrollment sanction. The termination of petitioner's MAPP enrollment as of May 1, 2015, is not disturbed by this order. I note to petitioner that she may still be liable for the \$100.00 MAPP premium for April, 2015, since even if she had terminated her MAPP enrollment on April 21, 2015, the April premium would need to be paid for the coverage that had been provided. Petitioner testified that she could not afford the payment, and that she was dealing with her disability and an out-of-state lawsuit at the time, in an effort to explain why she didn't terminate her enrollment earlier. However, neither of these provides sufficient grounds to overturn the termination for failure to pay a MAPP premium when due.

CONCLUSIONS OF LAW

1. The respondent correctly terminated petitioner's MAPP enrollment effective May 1, 2015, due to failure to pay a MAPP premium.
2. The respondent incorrectly placed petitioner in restrictive reenrollment because it provided petitioner with incorrect information about the commencement of the restrictive reenrollment period.

THEREFORE, it is

ORDERED

That, this matter shall be remanded to the respondent to remove petitioner's restrictive reenrollment sanction within 10 days following issuance of this decision. In all other regards, petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

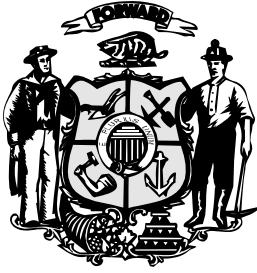
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 8th day of July, 2015.

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 8, 2015.

Dane County Department of Human Services
Division of Health Care Access and Accountability